

Message Text

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SUBJ: GOA STRENGTHENS TRAFFICKING PENALTIES

SUMMARY. THE GOA HAS ENCTED NEW LEGISLATION WHICH
SIGNIFICANTLY STRENGTHENS EXISTING NARCOTICS PENALTIES,

PROVIDES THE FEDERAL NARCOTICS POLICE WITH NATION-WIDE
JURISDICTION AND WHICH MAY PROVIDE THE BASIS FOR CONSPIRACY
CONVICTIONS IN NARCOTICS CASES. END SUMMARY.

1. THE GOVERNMENT OF ARGENTINA HAS, FINALLY, ENACTED BADLY
NEEDED NEW LEGISLATION WHICH SIGNIFICANTLY STRENGTHENS AND
EXPANDS THE EXISTING PENAL CODE FOR NARCOTICS VIOLATIONS. THE
MAJOR PROVISIONS OF THE NEW ACT, TECHNICALLY AN AMENDMENT OF
ARGICLE 204 OF THE PENAL CODE, PROVIDE FOR:

A) INCREASED PENALTIES OF 3 TO 12 YEARS AND FINES OF FROM
A\$P 1,00 TO A\$P 200,000(A\$P OMOE EQUALS \$1.00 AT THE OFFICIAL
RATE) FOR THE ILLEGAL PRODUCTION, CULTIVATION, DISTRIBUTION AND
OR TRANSPORTATION OF NACOTICS AND DANGEROUS DRUGS. THIS
PENALTY ALSO APPLIES TO THOSE WHO DISBURSE SUCH SUBSTANCES
WITHOUT CHARGE TO THE RECIPIENT (ARGICLE 2).

B) PENALTIES OF FROM FIVE TO FIFTEEN YEARS AND A FINE OF
FROM A\$P 5,000 TO A\$P 1,000,000 FOR THOSE "WHO ORGANIZE OR
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FINANCE ANY ILLICIT ACTIVITY TO WHICH THE PREVIOUS ARTICLE

REFERS..." THE SPANISH TEXT READS: "ARTICULO 30. SERA REPRI-
MIDO CON PRISION DE TRES (3) A DOCE (12) ANOS Y MULTA DE CINCO
MIL (\$5.000) A UN MILLION DE PESOS (\$1,000,000) EL QUE ORGANICE
O FINANCIÉ CUALQUIERA DE LAS ACTIVIDADES ILICITAS A QUE SE RE-
FIERE EL ARTICULO ANTERIOR".

C) PENALTIES OF FROM 1 TO 6 YEARS AND A FINE OF FROM A\$P 100
TO A\$P 10.000 FOR PERSONAL POSSESSION.

D) PENALTIES OF FROM 3 TO 8 YEARS AND A FINE OF A\$P 500 TO
A\$P 10,000 FOR THOSE WHO INDUCE OTHERS TO DRUGS, OR USIS THEM
PERSONALLY IN THE PREPARATION, FACILITATION, EXECUTION, OR
CONCEALMENT OF ANOTHER CRIME. THE SAME PENALTIES APPLY TO THOSE
WHO "PRAISE OR SPREAD PUBLICITY ON THE USE OF DURGS,
THOSE WHO USE DRUGS IN PUBLIC PLACES OR IN PRIVATE PLACES ACCESSIBLE
TO
THIRD PARTIES."

D) IN ADDITION TO THE SENTENCES, THE COURTS WILL IMPOSE MANDATORY
HOSPITALIZATION AND TREATMENT IN THOSE CASES WHERE THE CONVICTED
IS PHYSICALLY OR PSYCHOLOGICALLY DEPENDENT UPON A DRUG.

2. THE NEW LEGISLATION ALSO STATES THAT NARCOTICS RELATED
CRIMES AND PENALTIES "ARE CONSISTEMT WITH FEDERAL JUSTICE",
PENALTIES ARE "WITHIN THE COMPETECE OF FEDERAL JUSTICE".
COMMENT. THE ADMINISTRATION-SPONSORED MEASURE REPRESENTS A MAJOR
ILLEGAL NARCOTICS. FROM THE ENFORCEMNT VIEWPOINT, THE TWO
MOST IMPORTANT CLAUSES ARE THOSE WHICH DEAL WITH THE
"FEDERALIZATION OF THE CRIME" AND ARTICLE3, CONCERNING
ORGANIZATION AND FINANCING. COLLECTIVELY, THEY WILL PERMIT THE
FEDERAL POLICE TO EXPAND BOTH THE SCOPE AND THE DEPTH OF THEIR
ACTIVITIES, HOPEFULLY CONCENTRATING THEIR FORCES AGAINST THE
MAJOR TRAFFICKERS WHO NOW RESIDE HERE. ARTICLE 3 ALSO IMPLIES,
BUT DOES NOT SPECIFICALLY STATE, THAT CONSPIRACY, INTHE SENSE
OF UNITED STATES LAW, MAY LEAD TO CONVICTIONS IN NARCOTICS-
RELATED CASES. (HERETOFORE, UNDER ARGENTINE LAW, IT WAS VIRTUALLY;
IMPOSSIBLE TO OBTAIN A CONVICTION UNLESS THE ACCUSED WAS ARRESTED
WHILE IN PHYSICAL POSSESSION OF ILLEGAL SUBJSTANCES).
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